

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

TIJUANA J. CANDERS,

Plaintiff,

-against-

ROBBIN CAPELLAN, et al.,

Defendants.

1:22-CV-10090 (LTS)

ORDER OF DISMISSAL

LAURA TAYLOR SWAIN, Chief United States District Judge:

By order dated and entered on January 26, 2023, the Court dismissed this *pro se* action; the Court dismissed Plaintiff's claims in which she seeks the criminal investigation and prosecution of the defendants for lack of subject matter jurisdiction, and her claims of copyright infringement and trademark infringement for failure to state a claim on which relief may be granted. (ECF 13) The Court, however, granted Plaintiff 30 days' leave to replead her claims of copyright infringement and trademark infringement in a third amended complaint. (*Id.*) The Court warned Plaintiff that if she failed to file a third amended complaint within the time allowed, or failed to show good cause to excuse such failure, the Court would enter judgment dismissing this action in the following manner: the Court would (1) dismiss Plaintiff's claims in which she seeks the criminal investigation and prosecution of the defendants for lack of subject matter jurisdiction, *see* Fed. R. Civ. P. 12(h)(3); (2) dismiss Plaintiff's claims of copyright infringement and trademark infringement for failure to state a claim on which relief may be granted, *see* 28 U.S.C. § 1915(e)(2)(B)(ii); and (3) decline to consider, under the Court's supplemental jurisdiction, any of Plaintiff's claims that she asserts under state law, *see* 28 U.S.C. § 1367(c)(3). (*Id.*)

On the same date that that order was dated and entered, January 26, 2023, Plaintiff filed a notice of appeal, a motion for an extension of time to file a notice of appeal under Rule 4(a)(5) of the Federal Rules of Appellate Procedure, a motion for leave to proceed *in forma pauperis* (“IFP”) on appeal, and an application to appeal IFP. In an order dated and entered on February 24, 2023, the Court construed Plaintiff’s notice of appeal as an attempt to file an interlocutory appeal of the Court’s January 26, 2023, order, and the Court denied Plaintiff’s motion for an extension of time to file a notice of appeal as unnecessary, and denied her motion for leave to proceed IFP on appeal and her application to appeal IFP as moot. (ECF 16.)

On March 9, 2023, the United States Court of Appeals for the Second Circuit dismissed Plaintiff’s appeal, effective March 30, 2023. *Canders v. Hodges*, No. 23-118 (2d Cir. Mar. 9, 2023).

Plaintiff has not filed a third amended complaint. Accordingly, the Court dismisses this action for the reasons stated in the Court’s January 26, 2023, order. The Court directs the Clerk of Court to enter judgment in the following manner: the Court (1) dismisses Plaintiff’s claims in which she seeks the criminal investigation and prosecution of the defendants for lack of subject matter jurisdiction, *see* Fed. R. Civ. P. 12(h)(3); (2) dismisses Plaintiff’s claims of copyright infringement and trademark infringement for failure to state a claim on which relief may be granted, *see* 28 U.S.C. § 1915(e)(2)(B)(ii); and (3) declines to consider, under the Court’s supplemental jurisdiction, any of Plaintiff’s claims that she asserts under state law, *see* 28 U.S.C. § 1367(c)(3).

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

Dated: July 20, 2023
New York, New York

/s/ Laura Taylor Swain

LAURA TAYLOR SWAIN
Chief United States District Judge